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10 Attorneys for Defendants,
11 Rapidshare AG, Christian Schmid, and Bobby Chang

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PERFECT 10, INC., a California
corporation,

Plaintiff,

v.

RAPIDSHARE A.G., a corporation,
CHRISTIAN SCHMID; BOBBY
CHANG; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO. 09 CV 2596 H (WMC)

DECLARATION OF LORI CHANG

[Filed concurrently with Notice of Motions
and Motions to Dismiss; Memoranda in
support of same; Declarations of L. Pfaff, D.
Raimer, and B. Hess]

DATE: May 10, 2010

TIME: 10:30 a.m.

CTRM: 13

JUDGE: Hon. Marilyn L. Huff

DATE FILED: November 18, 2009

TRIAL DATE: None Set

1 I, Lori Chang, declare:

2 1. I am an attorney duly licensed to practice law by the State of California and
3 before this Court, and am an associate in the law firm of Greenberg Traurig, LLP,
4 counsel of record for the defendants RapidShare AG, Christian Schmid, and Bobby
5 Chang, in this action. I have personal knowledge of the following facts, except to the
6 extent that they are alleged upon information and belief, and would competently testify
7 thereto if called as a witness.

8 2. Using the search functions available at the tripadvisor.com website, I
9 performed a search for nonstop flights between Zurich, Switzerland, and San Diego,
10 California. I searched multiple airlines and chose dates at random in the months of April,
11 May, June, August, and November of 2010, and performed a total of 10 searches (two
12 per month). None of the 10 searches were able to locate a nonstop flight between the
13 Zurich airport and San Diego International airport. I also contacted a travel agent and
14 asked that she search to see whether there were any nonstop flights between Zurich and
15 San Diego. She informed me that there were no airlines offering nonstop flights between
16 these two cities at any time in the month of March (she also informed that her search
17 would only allow her to view flights within the current month). Based on my own
18 searches on tripadvisor.com, I determined that the total amount of flight time would run
19 anywhere from 15 hours to more than 23 hours. I am also informed and believe that
20 without encountering any travel delays, it would take approximately 24 hours or more to
21 travel from RapidShare's office in Cham, Switzerland, to San Diego, taking into account
22 travel time to and from the airports in both Switzerland and the United States and the
23 requirement that passengers arrive 2 hours early for international flights.

24 3. Attached as Exhibit A is a true and correct copy of the Order Consolidating
25 Cases, Staying *Google* And *Amazon* And Directing Case Management For *Microsoft*,
26 issued in the United States District Court, Central District of California, in Case No.
27 2:07-cv-05156-AHM-SH, on December 22, 2008.

1 4. Attached as Exhibit B is a true and correct copy of the Berne Convention for
2 the Protection of Literary and Artistic Works.

3 5. Attached as Exhibit C is a true and correct copy of the Paris Convention for
4 the Protection of Industrial Property.

5 6. Attached as Exhibit D is a true and correct copy of the Agreement on Trade-
6 Related Aspects Of Intellectual Property Rights ("TRIPS Agreement"), which is Annex
7 1C of the Marrakesh Agreement Establishing the World Trade Organization, signed in
8 Marrakesh, Morocco on April 15, 1994.

9 7. Attached as Exhibit E is a true and correct copy of a printout of Chapter
10 17.01 of 4 Melville B. Nimmer and David Nimmer, *Nimmer on Copyright* (Matthew
11 Bender, Rev. Ed. 2009).

12 8. Attached as Exhibit F is a true and correct copy of a printout of Chapter
13 17.05 of 4 Melville B. Nimmer and David Nimmer, *Nimmer on Copyright* (Matthew
14 Bender, Rev. Ed. 2009).

15 9. Attached as Exhibit G is a true and correct copy of a printout of Dr. Adolf
16 Dietz, *Germany* § 2, in International Copyright Law And Practice (Paul Edward Geller
17 ed., Lexis Nexis 2009).

18 10. Attached as Exhibit H is a true and correct copy of a printout of Dr. Adolf
19 Dietz, *Germany* § 6, in International Copyright Law And Practice (Paul Edward Geller
20 ed., Lexis Nexis 2009).

21 11. Attached as Exhibit I is a true and correct copy of a printout of Dr. Adolf
22 Dietz, *Germany* § 8, in International Copyright Law And Practice (Paul Edward Geller
23 ed., Lexis Nexis 2009).

24 12. Attached as Exhibit J is a true and correct copy of a printout of Francois
25 Dessemontet, *Switzerland* § 2, in International Copyright Law And Practice (Paul
26 Edward Geller ed., Lexis Nexis 2009)

1 13. Attached as Exhibit K is a true and correct copy of a printout of Francois
2 Dessemontet, *Switzerland* § 6, in International Copyright Law And Practice (Paul
3 Edward Geller ed., Lexis Nexis 2009)

4 14. Attached as Exhibit L is a true and correct copy of a printout of Francois
5 Dessemontet, *Switzerland* § 8, in International Copyright Law And Practice (Paul
6 Edward Geller ed., Lexis Nexis 2009)

7 15. Attached as Exhibit M is a true and correct copy of a printout of a printout
8 of the webpage located at <http://www.osec.doc.gov/ogc/occic/refmj.htm>.

9 16. Attached as Exhibit N is a true and correct copy of a printout of a webpage
10 from the California Secretary of State website, showing that Perfect 10, Inc. is located in
11 Beverly Hills, CA.

12 17. Attached as Exhibit O is a true and correct copy of an article printed from
13 the website www.xbiz.com.

14 18. Attached as Exhibit P is a true and correct copy of a webpage from the
15 website located at www.hegre-art.com, which is a website that purports to be the official
16 site dedicated to displaying the works of photographer Petter Hegre. This webpage states
17 that Petter Hegre “is today primarily based in the south of Portugal or in his studio in
18 Paris.” Attached as Exhibit Q is a true and correct copy of a webpage from the website
19 located at www.hegre-art.com, which provides background information for a Hungarian
20 model that was photographed by Petter Hegre and featured in Perfect 10’s publication.

21 19. Upon information and belief, the majority of Perfect 10’s models are located
22 in eastern Europe, primarily in the former Soviet Union. Attached as Exhibit R is a true
23 and correct copy of a printout of a webpage from the website www.statemaster.com,
24 stating that “[t]he majority of *Perfect 10*’s models hail from Eastern Europe --
25 particularly former Soviet Union states . . .”

26 20. Upon further information and belief, many, if not most, of Perfect 10’s
27 photos were created by the photographer Petter Hegre. Attached as Exhibit S is a
28 pleading filed by Perfect 10 in the matter of *Perfect 10, Inc. v. Amazon.com, Inc. et al.*,

1 titled "Perfect 10's Response To December 2, 2008 Order," in which Perfect 10 states, on
2 page 5, that "potentially hundreds of images [were] acquired [by Perfect 10] from [Petter]
3 Hegre. . . ."

4

5 I declare under penalty of perjury under the laws of the United States of America
6 that the foregoing is true and correct. Executed on March 23, 2010, in Santa Monica,
7 California.

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LORI CHANG

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TABLE OF EXHIBITS
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1. Exhibit A: Consolidation Order
2. Exhibit B: Berne Convention
3. Exhibit C: Paris Convention
4. Exhibit D: TRIPS Agreement
5. Exhibit E: Nimmer on Copyright §17.01
6. Exhibit F: Nimmer on Copyright §17.05
7. Exhibit G: Dr. Adolf Dietz, *Germany* §2 in International Copyright Law and Practice (Paul Edward Geller ed., Lexis Nexis 2009)
8. Exhibit H: Dr. Adolf Dietz, *Germany* §6 in International Copyright Law and Practice (Paul Edward Geller ed., Lexis Nexis 2009)
9. Exhibit I: Dr. Adolf Dietz, *Germany* §8 in International Copyright Law and Practice (Paul Edward Geller ed., Lexis Nexis 2009)
10. Exhibit J: Francois Dessemontet, *Switzerland* §2 in International Copyright Law and Practice (Paul Edward Geller ed., Lexis Nexis 2009)
11. Exhibit K: Francois Dessemontet, *Switzerland* §6 in International Copyright Law and Practice (Paul Edward Geller ed., Lexis Nexis 2009)
12. Exhibit L: Francois Dessemontet, *Switzerland* §8 in International Copyright Law and Practice (Paul Edward Geller ed., Lexis Nexis 2009)
13. Exhibit M: Office of the Chief Counsel for International Commerce, U.S. Department of Commerce, *Recognition and Enforcement of Foreign Money Judgment* (2002)
14. Exhibit N: Perfect 10 California Secretary of State Record
15. Exhibit O: Xbiz.com Web Article
16. Exhibit P: Herge Art Web Page

1 17.Exhibit Q: Herge Art Web Page
2 18.Exhibit R: Statemaster.com Web Page
3 19.Exhibit S: Perfect 10's Response to Order
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